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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/323,628	06/01/1999	KENSHIN KITOH	791-052	9448

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EXAMINER

SORKIN, DAVID L

ART UNIT PAPER NUMBER

1723

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/323,628	Applicant(s) KITOH, KENSHIN	
	Examiner David L. Sorkin	Art Unit 1723	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Detailed Action.

3. ☒ Applicant's reply has overcome the following rejection(s): See Detailed Action.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Detailed Action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 3-23 and 25-27.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

DETAILED ACTION

1. Applicant states that the proposed amendments are "merely editorial in nature". The examiner agrees that they would overcome the objections and section 112, second paragraph rejection set forth in the final rejection. However, apparently inadvertently, the proposed amendment adds a plus sign (+) within the phrase "negative electrode" in line 10 of proposed claim 27. Therefore, the amendment will not be entered because, while making beneficial editorial changes, it introduces a new editorial issue. If applicant desires, the proposed amendment may be resubmitted without the added plus sign, in which case the amendment would be entered upon appeal.
2. Applicant's arguments have been carefully considered. With regard to the section 102 rejection of independent claim 7, applicant argues that the battery of JP 8-185850 is not within the scope of claim 7, because in JP-8-185850 there is (according to applicant) only one tab per electrode. Applicant's argument is considered not to be convincing for the following reason. The broadest reasonable interpretation of the word "electrode" as used in the instant specification includes multiple layered structures. See for example page 11, lines 21-23. While it is true that each electrode layer of JP-8-185850 has only a single tab, the same is true of the laminated embodiment of the instant specification as illustrated in Fig. 3. Instant claim 7 covers both the laminated and wound embodiments of the invention (line 3 of the claim states "being wound or laminated"). If one accepted applicant's now-argued narrow definition of the word "electrode", the laminated embodiment of Fig. 3 would be outside the scope of the claim. In summary, it is considered that the scope of claim 7 includes situations where

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plural tabs are attached to a plural layer electrode, even if there is only one tab per layer, as in the embodiment of instant Fig. 3 and as in JP-8-185850.

3. Regarding the section 103 rejection of independent claim 4, as obvious over JP-8-185850 in view of Watanabe ('975), applicant argues, in addition to the argument discussed above regarding section 102, that it would not have been obvious to have combined the teachings of the two references to make a wound battery have tabs according to JP-8-185850. The examiner does agree with applicant's arguments that a wound battery would not necessarily have the advantage of selectively cutting off subunits of the battery upon fusing of a single tab. However, it is considered that the combined teaching of the two references still render the claim obvious because Watanabe ('975) discusses in detail attaching pluralities of tabs to electrodes of both wound and laminated batteries and states that the same problems are faced in both wound and laminated batteries. Furthermore, the instant specification explicitly uses that word "obvious" to describe the relationship between the wound and spiral embodiments (see page 21, line 12).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 703-308-1121. The examiner can normally be reached on 8:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 703-308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



David Sorkin



W. L. WALKER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700